

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JUAN M. VAZQUEZ,

Plaintiff,

-v-

CITY OF NEW YORK ET AL.,

Defendants.
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: 21 Civ. 1573 (PAE) (VF)
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OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

Currently pending is a motion to dismiss by defendants Dana Roth (“Roth”) and the City of New York (“the City”). Dkt. 55. Before the Court is the June 17, 2022 Report and Recommendation of the Hon. Valerie Figueredo, United States Magistrate Judge, recommending that the Court grant the motion to dismiss as to those two defendants, but decline to *sua sponte* dismiss the Amended Complaint against the remaining defendants, who have not yet been served. Dkt. 66 (“Report”). The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts this recommendation.

DISCUSSION

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4


(S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Figueredo's thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that "failure to object within fourteen (14) days will result in a waiver of objections and will preclude appellate review," Report at 43, the parties' failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

CONCLUSION

For the foregoing reasons, the Court grants the City's and Roth's motion to dismiss, and adopts Judge Figueredo's recommendation not to dismiss the case against the remaining defendants, pursuant to guidance from the Circuit so instructing. *See Gill v. Mooney*, 824 F.2d 192, 194 (2d Cir. 1987) (citing *Massop v. Coughlin*, 770 F.2d 299, 301 (2d Cir. 1985)). The case—including the management of any service issues as to the remaining defendants—remains referred to Judge Figuero for general pretrial supervision. The Court respectfully directs the Clerk to mail a copy of this decision to plaintiff at the address on file.

SO ORDERED.


 Paul A. Engelmayer
 United States District Judge

Dated: July 11, 2022
 New York, New York